

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JUNE 21, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 509**

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**Introduced by Assembly Member Skinner**

February 15, 2011

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An act to amend Sections 277, 382, and 739.1 of the *Public Utilities Code*, and to amend Sections 19851, 19852, and 19853 of the Revenue and Taxation Code, relating to taxation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 509, as amended, Skinner. Federal earned income tax credit: notification: state departments and agencies.

The federal income tax law authorizes a refundable earned income tax credit for certain low-income individuals who have earned income and who meet certain other requirements. Existing California law requires an employer, as defined, to notify all employees that they may be eligible for the federal earned income tax credit (EITC), as specified.

This bill would require state departments and agencies that serve those who may qualify for the EITC, as defined, to notify their program recipients that they may be eligible for the EITC, at least once a year during the months of January through April, or alternatively, to provide this annual notification during a regularly scheduled contact with a recipient by telephone, mail, or electronic communication, or by an in-person communication, as specified. This bill would require state

departments and agencies that do not directly communicate with persons who may qualify for the EITC to communicate indirectly through agencies or districts serving those persons.

*Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, and establishes the Universal Lifeline Telephone Service Trust Administrative Committee Fund, moneys within which may be used for specified purposes. Existing law, among other requirements, requires the commission to establish a program of assistance to low-income electric and gas customers, which is referred to as the California Alternate Rates for Energy (CARE) program and provides that the commission shall authorize recovery of administrative costs associated within the implementation of the CARE program.*

*This bill would authorize the Public Utilities Commission to use the moneys collected for the purposes of the Universal Lifeline Telephone Service to accomplish the EITC notifications, described above, and to recover any administrative costs associated with the notifications. The bill also would authorize the commission in addition to the recovery of specified administrative costs associated with the CARE program, to recover administrative costs associated with the notifications.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 277 of the Public Utilities Code is*  
2     *amended to read:*  
3     277. (a) There is hereby created the Universal Lifeline  
4     Telephone Service Trust Administrative Committee, which is an  
5     advisory board to advise the commission regarding the  
6     development, implementation, and administration of a program to  
7     ensure lifeline telephone service is available to the people of the  
8     state, as provided for in Article 8 (commencing with Section 871)  
9     of Chapter 4 of Part 1 of Division 1, and to carry out the program  
10    pursuant to the commission's direction, control, and approval.  
11    (b) All revenues collected by telephone corporations in rates  
12    authorized by the commission to fund the program specified in  
13    subdivision (a) shall be submitted to the commission pursuant to  
14    a schedule established by the commission. Commencing on  
15    October 1, 2001, and continuing thereafter, the commission shall

1 transfer the moneys received, and all unexpended revenues  
2 collected prior to October 1, 2001, to the Controller for deposit in  
3 the Universal Lifeline Telephone Service Trust Administrative  
4 Committee Fund. All interest earned by moneys in the fund shall  
5 be deposited in the fund.

6 (c) Moneys appropriated from the Universal Lifeline Telephone  
7 Service Trust Administrative Committee Fund to the commission  
8 shall be utilized exclusively by the commission for the program  
9 specified in subdivision (a), including all costs of the board and  
10 the commission associated with the administration and oversight  
11 of the program and the fund, *and for the purposes of Part 10.3*  
12 *(commencing with Section 19850) of Division 2 of the Revenue*  
13 *and Taxation Code.*

14 SEC. 2. Section 382 of the Public Utilities Code is amended  
15 to read:

16 382. (a) Programs provided to low-income electricity  
17 customers, including, but not limited to, targeted energy-efficiency  
18 services and the California Alternate Rates for Energy program  
19 shall be funded at not less than 1996 authorized levels based on  
20 an assessment of customer need.

21 (b) In order to meet legitimate needs of electric and gas  
22 customers who are unable to pay their electric and gas bills and  
23 who satisfy eligibility criteria for assistance, recognizing that  
24 electricity is a basic necessity, and that all residents of the state  
25 should be able to afford essential electricity and gas supplies, the  
26 commission shall ensure that low-income ratepayers are not  
27 jeopardized or overburdened by monthly energy expenditures.  
28 Energy expenditure may be reduced through the establishment of  
29 different rates for low-income ratepayers, different levels of rate  
30 assistance, and energy efficiency programs.

31 (c) Nothing in this section shall be construed to prohibit electric  
32 and gas providers from offering any special rate or program for  
33 low-income ratepayers that is not specifically required in this  
34 section.

35 (d) Beginning in 2002, an assessment of the needs of  
36 low-income electricity and gas ratepayers shall be conducted  
37 periodically by the commission with the assistance of the  
38 Low-Income Oversight Board. The assessment shall evaluate  
39 low-income program implementation and the effectiveness of  
40 weatherization services and energy efficiency measures in

1 low-income households. The assessment shall consider whether  
2 existing programs adequately address low-income electricity and  
3 gas customers' energy expenditures, hardship, language needs,  
4 and economic burdens.

5 (e) The commission shall, by not later than December 31, 2020,  
6 ensure that all eligible low-income electricity and gas customers  
7 are given the opportunity to participate in low-income energy  
8 efficiency programs, including customers occupying apartments  
9 or similar multiunit residential structures. The commission and  
10 electrical corporations and gas corporations shall make all  
11 reasonable efforts to coordinate ratepayer-funded programs with  
12 other energy conservation and efficiency programs and to obtain  
13 additional federal funding to support actions undertaken pursuant  
14 to this subdivision.

15 These programs shall be designed to provide long-term  
16 reductions in energy consumption at the dwelling unit based on  
17 an audit or assessment of the dwelling unit, and may include  
18 improved insulation, energy efficient appliances, measures that  
19 utilize solar energy, and other improvements to the physical  
20 structure.

21 (f) The commission shall allocate funds necessary to meet *both*  
22 the low-income objectives in this section *and the purposes of Part*  
23 *10.3 (commencing with Section 19850) of Division 2 of the Revenue*  
24 *and Taxation Code.*

25 *SEC. 3. Section 739.1 of the Public Utilities Code is amended*  
26 *to read:*

27 739.1. (a) As used in this section, the following terms have  
28 the following meanings:

29 (1) "Baseline quantity" has the same meaning as defined in  
30 Section 739.

31 (2) "California Solar Initiative" means the program providing  
32 ratepayer funded incentives for eligible solar energy systems  
33 adopted by the commission in Decision 05-12-044 and Decision  
34 06-01-024, as modified by Article 1 (commencing with Section  
35 2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with  
36 Section 25780) of Division 15 of the Public Resources Code.

37 (3) "CalWORKs program" means the program established  
38 pursuant to the California Work Opportunity and Responsibility  
39 to Kids Act (Chapter 2 (commencing with Section 11200) of Part  
40 3 of Division 9 of the Welfare and Institutions Code).

1 (4) “Public goods charge” means the nonbypassable separate  
2 rate component imposed pursuant to Article 7 (commencing with  
3 Section 381) of Chapter 2.3 and the nonbypassable system benefits  
4 charge imposed pursuant to the Reliable Electric Service  
5 Investments Act (Article 15 (commencing with Section 399) of  
6 Chapter 2.3).

7 (b) (1) The commission shall establish a program of assistance  
8 to low-income electric and gas customers with annual household  
9 incomes that are no greater than 200 percent of the federal poverty  
10 guideline levels, the cost of which shall not be borne solely by any  
11 single class of customer. The program shall be referred to as the  
12 California Alternate Rates for Energy or CARE program. The  
13 commission shall ensure that the level of discount for low-income  
14 electric and gas customers correctly reflects the level of need.

15 (2) The commission may, subject to the limitation in paragraph  
16 (4), increase the rates in effect for CARE program participants for  
17 electricity usage up to 130 percent of baseline quantities by the  
18 annual percentage increase in benefits under the CalWORKs  
19 program as authorized by the Legislature for the fiscal year in  
20 which the rate increase would take effect, but not to exceed 3  
21 percent per year.

22 (3) Beginning January 1, 2019, the commission may, subject  
23 to the limitation in paragraph (4), establish rates for CARE program  
24 participants pursuant to this section and Sections 739 and 739.9,  
25 subject to both of the following:

26 (A) The requirements of subdivision (b) of Section 382 that the  
27 commission ensure that low-income ratepayers are not jeopardized  
28 or overburdened by monthly energy expenditures.

29 (B) The requirement that the level of the discount for  
30 low-income electricity and gas ratepayers correctly reflects the  
31 level of need as determined by the needs assessment conducted  
32 pursuant to subdivision (d) of Section 382.

33 (4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80  
34 percent of the corresponding tier 1, tier 2, and tier 3 rates charged  
35 to residential customers not participating in the CARE program,  
36 excluding any Department of Water Resources bond charge  
37 imposed pursuant to Division 27 (commencing with Section 80000)  
38 of the Water Code, the CARE surcharge portion of the public  
39 goods charge, any charge imposed pursuant to the California Solar

1 Initiative, and any charge imposed to fund any other program that  
2 exempts CARE participants from paying the charge.

3 (5) Rates charged to CARE program participants shall not have  
4 more than three tiers. An electrical corporation that does not have  
5 a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order  
6 to moderate the impact on program participants whose usage  
7 exceeds 130 percent of baseline quantities, shall be phased in to  
8 80 percent of the corresponding rates charged to residential  
9 customers not participating in the CARE program, excluding any  
10 Department of Water Resources bond charge imposed pursuant to  
11 Division 27 (commencing with Section 80000) of the Water Code,  
12 the CARE surcharge portion of the public goods charge, any charge  
13 imposed pursuant to the California Solar Initiative, and any other  
14 charge imposed to fund a program that exempts CARE participants  
15 from paying the charge. For an electrical corporation that does not  
16 have a tier 3 CARE rate that introduces a tier 3 CARE rate, the  
17 initial rate shall be no more than 150 percent of the CARE baseline  
18 rate. Any additional revenues collected by an electrical corporation  
19 resulting from the adoption of a tier 3 CARE rate shall, until the  
20 utility's next periodic general rate case review of cost allocation  
21 and rate design, be credited to reduce rates of residential ratepayers  
22 not participating in the CARE program with usage above 130  
23 percent of baseline quantities.

24 (c) The commission shall work with the public utility electrical  
25 and gas corporations to establish penetration goals. The  
26 commission shall authorize recovery of all administrative costs  
27 associated with the implementation of the CARE program, *and*  
28 *all the administrative costs associated with the implementation of*  
29 *Part 10.3 (commencing with Section 19850) of Division 2 of the*  
30 *Revenue and Taxation Code* that the commission determines to be  
31 reasonable, through a balancing account mechanism.  
32 Administrative costs shall include, but are not limited to, outreach,  
33 marketing, regulatory compliance, certification and verification,  
34 billing, measurement and evaluation, and capital improvements  
35 and upgrades to communications and processing equipment.

36 (d) The commission shall examine methods to improve CARE  
37 enrollment and participation. This examination shall include, but  
38 need not be limited to, comparing information from CARE and  
39 the Universal Lifeline Telephone Service (ULTS) to determine  
40 the most effective means of utilizing that information to increase

1 CARE enrollment, automatic enrollment of ULTS customers who  
2 are eligible for the CARE program, customer privacy issues, and  
3 alternative mechanisms for outreach to potential enrollees. The  
4 commission shall ensure that a customer consents prior to  
5 enrollment. The commission shall consult with interested parties,  
6 including ULTS providers, to develop the best methods of  
7 informing ULTS customers about other available low-income  
8 programs, as well as the best mechanism for telephone providers  
9 to recover reasonable costs incurred pursuant to this section.

10 (e) (1) The commission shall improve the CARE application  
11 process by cooperating with other entities and representatives of  
12 California government, including the California Health and Human  
13 Services Agency and the Secretary of California Health and Human  
14 Services, to ensure that all gas and electric customers eligible for  
15 public assistance programs in California that reside within the  
16 service territory of an electrical corporation or gas corporation,  
17 are enrolled in the CARE program. To the extent practicable, the  
18 commission shall develop a CARE application process using the  
19 existing ULTS application process as a model. The commission  
20 shall work with public utility electrical and gas corporations and  
21 the Low-Income Oversight Board established in Section 382.1 to  
22 meet the low-income objectives in this section.

23 (2) The commission shall ensure that an electrical corporation  
24 or gas corporation with a commission-approved program to provide  
25 discounts based upon economic need in addition to the CARE  
26 program, including a Family Electric Rate Assistance program,  
27 utilize a single application form, to enable an applicant to  
28 alternatively apply for any assistance program for which the  
29 applicant may be eligible. It is the intent of the Legislature to allow  
30 applicants under one program, that may not be eligible under that  
31 program, but that may be eligible under an alternative assistance  
32 program based upon economic need, to complete a single  
33 application for any commission-approved assistance program  
34 offered by the public utility.

35 (f) The commission's program of assistance to low-income  
36 electric and gas customers shall, as soon as practicable, include  
37 nonprofit group living facilities specified by the commission, if  
38 the commission finds that the residents in these facilities  
39 substantially meet the commission's low-income eligibility  
40 requirements and there is a feasible process for certifying that the

1 assistance shall be used for the direct benefit, such as improved  
2 quality of care or improved food service, of the low-income  
3 residents in the facilities. The commission shall authorize utilities  
4 to offer discounts to eligible facilities licensed or permitted by  
5 appropriate state or local agencies, and to facilities, including  
6 women's shelters, hospices, and homeless shelters, that may not  
7 have a license or permit but provide other proof satisfactory to the  
8 utility that they are eligible to participate in the program.

9 (g) It is the intent of the Legislature that the commission ensure  
10 CARE program participants are afforded the lowest possible  
11 electric and gas rates and, to the extent possible, are exempt from  
12 additional surcharges attributable to the energy crisis of 2000–01.

13 ~~SECTION 4.~~

14 *SEC. 4.* Section 19851 of the Revenue and Taxation Code is  
15 amended to read:

16 19851. The Legislature finds and declares as follows:

17 (a) Congress created the federal earned income tax credit (EITC)  
18 in 1975 to offset the adverse effects of the Medicare and social  
19 security payroll taxes on working poor families and to encourage  
20 low-income workers to seek employment rather than welfare.

21 (b) Due to a relatively low percentage of federal earned income  
22 tax credit eligible persons who participate in the federal Earned  
23 Income Tax Credit program, hundreds of millions of federal dollars  
24 go unclaimed by the working poor in California.

25 (c) In order to alleviate the tax burden on working poor persons  
26 and families, to enhance the wages and income of working poor  
27 persons and families, to ensure that California receives its share  
28 of the federal money available in the federal Earned Income Tax  
29 Credit program, and to inject additional federal money into the  
30 California economy, the state shall facilitate the furnishing of  
31 information to working poor persons and families regarding the  
32 availability of the federal earned income tax credit so that they  
33 may claim that credit on their federal income tax returns.

34 (d) It is the intent of this act to offer the most cost-effective  
35 assistance to eligible taxpayers through the following:

36 (1) Notices provided by their employers.

37 (2) Notices provided by state departments and agencies that  
38 serve those who may qualify for the EITC.



~~SEC. 2.~~

SEC. 5. Section 19852 of the Revenue and Taxation Code is amended to read:

19852. For purposes of this part, the following terms have the following meanings:

(a) “Employer” means any California employer who is subject to, and is required to provide, unemployment insurance to his or her employees, under the Unemployment Insurance Code.

(b) “Employee” means any person who is covered by unemployment insurance by his or her employer, pursuant to the Unemployment Insurance Code.

(c) “EITC” means the federal earned income tax credit, as defined in Section 32 of the Internal Revenue Code.

(d) “State departments and agencies that serve those who may qualify for the EITC” means those departments and agencies that operate state or federally funded programs primarily engaged in providing services to low-income individuals and families. Departments, agencies, and programs under this subdivision may include, but are not limited to, the following:

(1) The State Department of Education: free or reduced-price meal program and National School Lunch Program.

(2) The State Department of Social Services: the CalWORKs program, CalFresh, and foster families.

(3) The Public Utilities Commission: California Alternate Rates for Energy, the Energy Savings Assistance Program, Payment Plans, and Emergency Payment Assistance Programs, including Family Electric Rate Assistance, the California Weatherization Assistance Program, the Low Income Home Energy Assistance Program, the California LifeLine Telephone Program, and Link-Up.

(4) Employment Development Department: California Unemployment Insurance.

(5) State Department of Health Care Services: the Medi-Cal program.

(6) Managed Risk Medical Insurance Board (MRMIB): the Healthy Families Program.

~~SEC. 3.~~

SEC. 6. Section 19853 of the Revenue and Taxation Code is amended to read:

19853. (a) An employer shall notify all employees that they may be eligible for the EITC within one week before or after, or

1 at the same time, that the employer provides an annual wage  
2 summary, including, but not limited to, a Form W-2 or a Form  
3 1099, to any employee.

4 (b) The state departments and agencies that serve those who  
5 may qualify for the EITC, as defined in subdivision (d) of Section  
6 19852, shall notify their program recipients that they may be  
7 eligible for the EITC, at least once a year during the months of  
8 January through April, or alternatively, shall provide this annual  
9 notification during a regularly scheduled contact with a recipient  
10 by telephone, mail, or electronic communication, or by an in-person  
11 communication. State departments or agencies that do not directly  
12 communicate with persons or households with persons who may  
13 qualify for the EITC may communicate indirectly through agencies  
14 ~~or districts, districts, or regulated entities~~ that serve eligible persons  
15 or households with eligible persons. Departments, agencies, and  
16 programs are encouraged to develop the ~~least costly, most~~ effective  
17 method to provide notice to recipients of EITC eligibility, as long  
18 as the notice contains substantially the same language as the notice  
19 described in Section 19854.

20 (c) The employer shall provide the notification required by  
21 subdivision (a) by handing directly to the employee or mailing to  
22 the employee's last known address either of the following:

23 (1) Instructions on how to obtain any notices available from the  
24 Internal Revenue Service for this purpose, including, but not  
25 limited to, the IRS Notice 797 and Form W-5, or any successor  
26 notice or form.

27 (2) Any notice created by the employer, as long as it contains  
28 substantially the same language as the notice described in  
29 paragraph (1) or in Section 19854.

30 (d) The employer shall not satisfy the notification required by  
31 subdivision (a) by posting a notice on an employee bulletin board  
32 or sending it through office mail. However, these methods of  
33 notification are encouraged to help inform all employees of the  
34 EITC.

35 (e) Every employer shall process, in accordance with federal  
36 law, Form W-5 for advance payments of the EITC, upon the  
37 request of the employee.

O